

**AGREEMENT FOR CONSULTANT SERVICES  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
AON CONSULTING, INC. DBA AON HEWITT**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2013, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and AON CONSULTING, INC. DBA AON HEWITT, a New Jersey corporation authorized to do business in the State of California (hereinafter "CONSULTANT").

THE PARTIES HEREBY AGREE AS FOLLOWS:

**SECTION 1. SCOPE OF SERVICES.**

CONSULTANT shall perform those services specified in detail in EXHIBIT A, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

**SECTION 2. TERM OF AGREEMENT.**

**A. Initial Term**

The initial term of this AGREEMENT shall be from January 1, 2014 to June 30, 2014 ("Initial Term"), inclusive, subject to the provisions of Subsections 2.B, 2.C and Section 11 of this AGREEMENT.

**B. Options**

The City Manager may extend the Initial Term of the AGREEMENT in three (3) one-year increments and one (1) six-month increment, up to a maximum of forty-eight (48) months, ending on December 31, 2017 ("Option Period"). The City Manager shall exercise the option by written Notice of Exercise of Option in the form set forth in EXHIBIT G at least thirty (30) days prior to the expiration of this AGREEMENT or the expiration of the Option Period, whichever is applicable. All terms and conditions of this AGREEMENT shall remain in full force and effect during the Option Period.

**C. Appropriation of Funds**

CITY's funding of this AGREEMENT is subject to annual appropriations. CITY's exercise of any option to extend is contingent upon appropriation of funds by the CITY.

**SECTION 3. SCHEDULE OF PERFORMANCE.**

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT B, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

**SECTION 4. COMPENSATION.**

- A. The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, shall not exceed Ninety Two Thousand Five Hundred Dollars (\$92,500) for the Initial Term (January 1, 2014 through June 30, 2014) of the AGREEMENT.

The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, shall not exceed One Hundred Eighty Eight Thousand Four Hundred Dollars (\$188,400) for the first one-year Option Period (July 1, 2014 through June 30, 2015).

The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, shall not exceed One Hundred Ninety Five Thousand Three Hundred Thirty Six Dollars (\$195,336) for the second one-year Option Period (July 1, 2015 through June 30, 2016).

The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, shall not exceed Two Hundred Two Thousand Five Hundred Forty Nine Dollars

(\$202,549) for the third one-year Option Period (July 1, 2016 through June 30, 2017).

The compensation to be paid to CONSULTANT, including payment for professional services, supplies and equipment provided by CONSULTANT, for the one (1) six-month Option Period (July 1, 2017 to December 31, 2017) shall not exceed One Hundred Three Thousand One Hundred Thirteen Dollars (\$103,113).

The total maximum compensation, including payment for professional services, supplies and equipment provided by CONSULTANT for the Initial Term of the AGREEMENT, the three (3) one-year Option Periods and the one (1) six-month Option Period shall not exceed Seven Hundred Eighty One Thousand Eight Hundred Ninety Eight Dollars (\$781,898) for the total 48 month period ending December 31, 2017. Any expenses incurred in the performance of this AGREEMENT shall be the sole responsibility of CONSULTANT.

The rate and schedule of payment is set out in EXHIBIT C, entitled "COMPENSATION," which is attached hereto and incorporated herein.

B. CONSULTANT agrees that in the performance of this AGREEMENT, CONSULTANT shall adhere to City Council Policy 1-19, the following provisions of which are made applicable to this AGREEMENT:

1. It is the policy of the CITY that CITY's funds should not be used for the purchase of single-serving bottled water.
2. The following circumstances shall constitute exceptions to City Council Policy 1-19:
  - a. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services.

- b. High risk of cross-contamination with non-potable water.
    - c. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water may need to be distributed for health and safety reasons.
  - 3. CONSULTANT acknowledges and agrees that an invoice seeking reimbursement from CITY for the cost of single-serving bottled water under the exception referenced above in Subsection 2 (c) must be accompanied by a waiver form provided by CITY and signed by the department head of the CITY department administering this AGREEMENT.
- C. CITY's payment obligations under this AGREEMENT shall be limited to the payment of the compensation provided for in SECTION 4.A of this AGREEMENT. Notwithstanding any other provision of this AGREEMENT, in no event shall CITY be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this AGREEMENT or the services performed in connection with this AGREEMENT.

**SECTION 5. METHOD OF PAYMENT.**

Each month, CONSULTANT shall furnish to the CITY a statement of the work performed for compensation during the preceding month.

**SECTION 6. INDEPENDENT CONTRACTOR.**

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

**SECTION 7.**            **ASSIGNABILITY.**

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

**SECTION 8.**            **INDEMNIFICATION.**

CONSULTANT shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification.

Notwithstanding the foregoing, CONSULTANT's liability for damages caused by CONSULTANT'S professional negligence, arising out of, or in connection with this AGREEMENT, or the services performed in connection with this AGREEMENT, shall not exceed \$10,000,000. The foregoing limitation shall not limit CONSULTANT's liability for (1) statutory damages specified in this AGREEMENT; (2) CONSULTANT's gross negligence, fraud willful or criminal misconduct, or other liability that may not be limited under applicable law; (3) bodily injury, including death, or loss of, or damage to tangible personal or real property incurred while CONSULTANT is performing the services and to the extent caused by the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents.

Nothing in this AGREEMENT shall constitute a waiver or limitation of any rights that CITY may have under applicable law. In no event shall either party be liable to the other party for incidental, consequential, special, or punitive damages (including loss of data,

business or goodwill) regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise, and even if such party is advised of the likelihood of such damages.

**SECTION 9. INSURANCE REQUIREMENTS.**

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT D, entitled "INSURANCE," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Finance or the Director's authorized designee ("Risk Manager") of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

**SECTION 10. NONDISCRIMINATION.**

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

**SECTION 11. TERMINATION.**

- A. CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than thirty (30) days' written notice of termination.
- B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.
- C. CITY's City Manager, or designee, is empowered to terminate this AGREEMENT on behalf of CITY.

- D. In the event of termination, CONSULTANT shall deliver to CITY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed to the date of termination.

**SECTION 12. GOVERNING LAW.**

CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

**SECTION 13. COMPLIANCE WITH LAWS.**

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Without limiting the generality of the preceding sentence, CONSULTANT shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code.

**SECTION 14. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.**

CONSULTANT agrees that, in the performance of this AGREEMENT, CONSULTANT shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the CITY'S website at the following link: <http://www.sanjoseca.gov/?nid=1774>.

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

- A. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
- B. Use of Energy Star Compliant equipment.
- C. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)
- D. Internal waste reduction and reuse protocol(s).

- E. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

**SECTION 15. CONFIDENTIAL INFORMATION.**

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.

**SECTION 16. OWNERSHIP OF MATERIALS.**

All reports, documents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use. Notwithstanding the foregoing, CITY and CONSULTANT agree and acknowledge that CONSULTANT's reports may incorporate CONSULTANT's proprietary information and CONSULTANT will continue to retain all right, title and interest in and to CONSULTANT's proprietary information and may use such proprietary information in connection with services for CONSULTANT's clients.

**SECTION 17. WAIVER.**

CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

**SECTION 18. CONSULTANT'S BOOKS AND RECORDS.**

- A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to



CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.

- B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to CITY, at any time during regular business hours, upon advance written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT. CONSULTANT acknowledges that under certain circumstances specified in California Government Code Section 8546.7, this AGREEMENT (if it involves an expenditure of \$10,000 or more of public funds) may be subject to examination and audit by the Auditor of the State of California pursuant to California Government Code Section 8546.7.
- D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

**SECTION 19. CONFLICT OF INTEREST.**

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. CONSULTANT's employees assigned to perform services as specified in EXHIBIT A of this AGREEMENT ("CONSULTANT's Assigned Employees") shall file an Assuming Office Disclosure Statement of Economic Interests (Form 700) as specified in EXHIBIT E, entitled "DISCLOSURE STATEMENT", which is attached hereto and incorporated herein. Such statement shall be filed within thirty (30) days of the date of this AGREEMENT and annually thereafter by the first of April. Upon termination of this AGREEMENT, CONSULTANT shall file a Leaving Office Disclosure Statement of Economic Interest (Form 700). CONSULTANT shall file the Form 700 with CITY's Clerk and submit a copy to CITY's Employee Benefits Manager. In addition to disclosure of financial interests, each CONSULTANT's Assigned Employee is also subject to disqualification under the conflicts of interest prohibitions in the Political Reform Act §§ 87100 et seq. and Government Code Section 1090.

**SECTION 20. GIFTS.**

- A. CONSULTANT is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.
- B. CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.

**SECTION 21. DISQUALIFICATION OF FORMER EMPLOYEES.**

CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or

official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). CONSULTANT shall not utilize either directly or indirectly any officer, employee, or agent of CONSULTANT to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

**SECTION 22. SPECIAL PROVISIONS.**

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

**SECTION 23. NOTICES.**

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY: City of San José – Human Resources  
Attn: Employee Benefits Manager  
200 E. Santa Clara Street, 2<sup>nd</sup> Floor Wing  
San José, CA 95113

To CONSULTANT: Aon Hewitt  
Attn: Barbara Weaver Lloyd Senior Vice  
President  
199 Fremont Street, 15<sup>th</sup> Floor San  
Francisco, CA 94105

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

**SECTION 24. VENUE.**

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

**SECTION 25. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

**WITNESS THE EXECUTION HEREOF** on the day and year first hereinabove written.

“CITY”

APPROVED AS TO FORM:

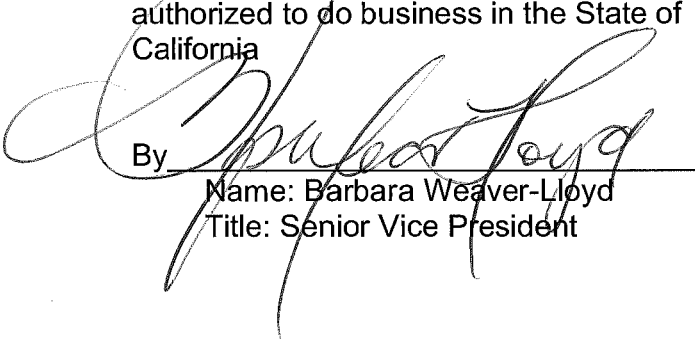
CITY OF SAN JOSE, a municipal  
corporation

Neelam Naidu 11/21/13  
NEELAM NAIDU  
Deputy City Attorney

By \_\_\_\_\_  
TONI TABER, CMC  
City Clerk

“CONSULTANT”

AON CONSULTING, INC. DBA AON  
HEWITT, a New Jersey corporation  
authorized to do business in the State of  
California

By  \_\_\_\_\_  
Name: Barbara Weaver-Lloyd  
Title: Senior Vice President

## **EXHIBIT A**

### **SCOPE OF SERVICES**

CONSULTANT shall perform the following services:

#### **1.1. Health & Welfare Plans**

**1.1.1.** CONSULTANT will provide CONSULTANT services to the CITY to assure CITY's participants have ongoing access to high quality, nationwide, effective benefit care and coverage. CONSULTANT services will include the following:

- 1.1.1.1.** Prepare and release RFP's as directed by CITY, including preparing specifications, obtaining quotes and proposals, negotiating rates, and analyzing and comparing proposals for both insured, self-funded and third party administered options, and contract review for CITY benefit programs currently in place or being considered by CITY, including but not limited to health plans, dental plans, vision plans, disability plans, life insurance, IRS Section 125 Cafeteria plan (including medical reimbursement and dependent care assistance plan), and Employee Assistance Program (EAP). Negotiate best price for services selected and contract terms with the vendors.
- 1.1.1.2.** As part of each RFP, develop and implement review of performance measures for each benefit provider. For each benefit provider for whom performance measures are already developed, report to the BRF on the measures within three (3) months of the issuance of each provider's performance report.
- 1.1.1.3.** Review rate proposals to ensure underlying assumptions are appropriate to CITY. Negotiate savings on renewals from existing vendors. Report outcomes to CITY.
- 1.1.1.4.** Present and facilitate to HR staff, City Council, Senior Executives and labor management forums an annual strategic overview of City's current benefit programs and provide a written report of recommendations for development of new programs or changes to existing programs, based on benefit trends and best practices, alternative strategies and estimated CITY costs to implement the recommendations. This will include strategic planning for Health Care Reform.

- 1.1.1.5. Assist CITY in analyzing existing coverage and developing cost-saving recommendations and in making projections of potential savings in connection with the renewal processes.
- 1.1.1.6. Assist CITY in monitoring and analyzing experience trends and providing timely alerts on changing patterns and provide appropriate recommendations.
- 1.1.1.7. Review benefit plan claims experience, claim service and claim administration to ensure maximum benefit to CITY.
- 1.1.1.8. Monitor and evaluate CITY's benefit providers to ensure agreed-upon performance measures and guarantees are met.
- 1.1.1.9. Review all CITY's insurance, benefit, and administrative service documents for accuracy and adherence to prior agreements (but not perform a legal review).
- 1.1.1.10. Provide customer service to Human Resources and Retirement Services staff and assist staff in problem resolution for employees and retirees with providers, billing, and advocacy for services, disputes, interpretation of services, changes, and contract disputes.
- 1.1.1.11. Review Evidence of Coverage documents for accuracy, make recommendations regarding changes, modification and/or benefit enhancements, and negotiate changes with carriers.
- 1.1.1.12. Provide annual industry reports, including the National Committee for Quality Assurance/HEDIS reports and the Pacific Business Group on Health/CCHRI reports, to CITY to assist in the ongoing assessment of the health insurance marketplace and the ongoing monitoring of CITY's carriers' performance.
- 1.1.1.13. Assist CITY with timely budget projections and analyses.
- 1.1.1.14. Assist CITY with Benefit Plan Design by conducting underwriting analyses to drill down on the plan design and key cost drivers.
- 1.1.1.15. Attend all Benefits Review Forum (BRF) meetings, and other meetings of the BRF or its subcommittees, as requested and provide written legislative updates at each regular meeting.

- 1.1.1.16. Provide neutral subject matter expertise for bargaining sessions.
- 1.1.1.17. Provide materials/handouts for meetings as necessary.
- 1.1.1.18. Develop and present reports to committees and for other meetings, as appropriate, regarding insurance trends, new products and audits.
- 1.1.1.19. Develop an annual report that compares CITY's benefits with other organizations in the Bay Area.
- 1.1.1.20. Provide benefits education to staff and Committees as necessary.
- 1.1.1.21. Review and disseminate information on State and Federal legislation that impacts benefits programs, and provide training, in consultation with CITY's legal counsel, to CITY on new laws pertaining to services.
- 1.1.1.22. Recommend and assist in the development of enhancements and improvements for communications specific to the needs of CITY's employees and retirees, including but not limited to brochures, pamphlets, website, forms, employee handbooks, annual enrollment, and employee orientation.
- 1.1.1.23. Assist CITY in proactive mitigation of negative impacts or disruption of services to employees and retirees from health benefit and/or provider network changes.
- 1.1.1.24. Assist CITY with plan transitions as necessary.
- 1.1.1.25. Support CITY with obtaining vendor marketing funds to support CITY sponsored benefit and wellness programs.
- 1.1.1.26. Provide a cost benefit analysis to CITY for outsourcing COBRA administration.
- 1.1.1.27. Make (or help prepare staff to make) high-level presentations on a wide range of subjects.
- 1.1.1.28. Provide expertise in tracking and measuring the performance of CITY's benefit programs.

- 1.1.1.29. Develop new initiatives, such as wellness plans and audits, to help CITY improve the financial performance of CITY's benefit programs.
- 1.1.1.30. Assist CITY with the appropriate execution and communication of benefit programs.
- 1.1.1.31. Assist CITY with government filings and reporting relating to CITY's employee benefit programs.

## **1.2. Actuarial Services**

**1.2.1.** CONSULTANT shall perform the following services during each fiscal year that falls within the term of the AGREEMENT with respect to conducting an actuarial review and rate setting analysis of CITY's self-funded dental plan for the subsequent fiscal year's budget.

- 1.2.1.1. Gather dental rates, claim data, enrollment information, plan design information, dental reserve information and fund balances.
- 1.2.1.2. Recommend funding rates for current and subsequent budget years.
- 1.2.1.3. Provide a Final Written Report, including statements regarding the health of the reserves and accuracy of revenue and expenditure estimates and recommendations of dental rates on a composite and 4-tier basis and recommendations regarding reserves based on City's trend experience and projected future trend.
- 1.2.1.4. At the direction of CITY, CONSULTANT's designated contact person must attend scheduled meetings with CITY's staff as necessary to complete the actuarial review.
- 1.2.1.5. CONSULTANT's review and analysis will rely on and follow appropriate Standards of Practice as promulgated by the Actuarial Standards Board of the American Academy of Actuaries.
- 1.2.1.6. Work with CITY and its dental provider(s) to identify and resolve any enrollment discrepancies that are discovered between CITY's eligibility files and those of the dental plan provider(s).



- 1.2.1.7. Provide CITY with any other services, which the Department of Human Resources or the City Manager's Budget Office may request in connection with the actuarial review, alternative scenarios and rate setting analysis of CITY's self-funded dental plan.

**1.3. Additional Services for Health & Welfare Plans and Actuarial Services.**  
CONSULTANT shall perform the following additional services for both CITY's Health & Welfare Plans and Actuarial Services.

**1.3.1. Strategic Consulting**

- 1.3.1.1. Situation and Plan Analysis and Strategic Planning.
- 1.3.1.2. Benchmark current benefits program to peer groups using proprietary data base.
- 1.3.1.3. Benchmark health costs comparing CITY health plan cost and cost drivers to other organizations.
- 1.3.1.4. Develop comprehensive and multi-year health, wellness and welfare benefits objectives and strategy.
- 1.3.1.5. Prepare Health Care Reform financial modeling annually.
- 1.3.1.6. Feasibility study for participation in AON Hewitt's pharmacy collective (cost benefit analysis) and team of pharmacy experts to evaluate experience.

**1.3.2. Renewal Services**

- 1.3.2.1. Develop pre-underwriting projection to minimize renewal surprises and prepare for vendor negotiations.

**1.3.3. RFP/Marketing Services (unlimited frequency and coverage)**

- 1.3.3.1. Prepare and present a detailed marketing and renewal report including objective and actuarially-valid network discount analysis, network access and provider disruption analysis and full disclosure of proposals and compensation prior to binding.
- 1.3.3.2. Arrange for and conduct finalist meetings.
- 1.3.3.3. Conduct vendor site visits.

- 1.3.3.4. Conduct pre-implementation audits as appropriate.

#### **1.3.4. Financial Management, Plan/Contribution Modeling & Reporting**

- 1.3.4.1. Develop a CITY specific plan design and contribution modeling tool.
- 1.3.4.2. Develop, implement, manage and monitor CITY's Total Health and Disease Management programs.

#### **1.3.5. Compliance & Regulatory Support**

- 1.3.5.1. Provide a Compliance DashBoard (web based) to help monitor, manage and audit.
- 1.3.5.2. Provide legal response to ad hoc compliance and regulatory related questions.

#### **1.3.6. Communication Collateral, Support, & Information Website**

- 1.3.6.1. Provide [MyAonAssist.com](http://MyAonAssist.com) content website.

#### **1.3.7. Client Services & Vendor Management**

- 1.3.7.1. Prepare, plan and facilitate annual vendor summits.

#### **1.3.8. Account Management.**

- 1.3.8.1. Provide the Aon Client Promise to CITY, as described in CONSULTANT's June 21, 2013 Response to Request for Proposal for Actuarial Services (RFP: Consultant-HR-2013) to CITY.

## **EXHIBIT B**

### **SCHEDULE OF PERFORMANCE**

Work shall commence January 1, 2014. The estimated time for completion is December 31, 2017.

In addition to requirements described in the Scope of Services, CONSULTANT shall adhere to the following schedule listed in the table below.

All dates are subject to review by CITY and can be revised as deemed appropriate by the CITY'S City Manager, or designee.

<b>Deliverable</b>	<b>Deliverable Date</b>
Conduct an annual strategic review of the CITY's current benefit programs and provide a written report of recommendations, including compliance with the Affordable Care Act.	January 30, 2014 January 30, 2015 January 30, 2016 January 30, 2017
Submit Four-Year Work Plan for benefit program RFPs for CITY approval	February 28, 2014
Submit cost benefit analysis for outsourcing COBRA administration and/or other administrative tasks.	June 30, 2014
Submit report on enhancements and improvements for CITY's existing employee and retiree communication materials.	July 31, 2014
Provide a written actuarial report for the self-funded dental plan.	August 31, 2014 August 31, 2015 August 31, 2016 August 31, 2017
Review and submit annual recommendations on all insurance, benefit, and administrative service documents and open enrollment communication materials related to accuracy and adherence to plan contracts and legal requirements.	September 15, 2014 September 15, 2015 September 15, 2016 September 15, 2017
Develop an annual report that compares the CITY's benefits with other organizations in the Bay Area.	October 1, 2014 October 1, 2015 October 1, 2016 October 1, 2017

**EXHIBIT C**  
**COMPENSATION**

**I. Initial Term and Option Maximums**

CITY agrees to compensate CONSULTANT at the not to exceed retainer fee cost described below for professional services performed in accordance with the terms and conditions of this AGREEMENT:

**(A) Initial Term and six-month Option Period:**

<u>January 1, 2014 – June 30, 2014:</u>	
Health & Welfare Benefit Services	\$ 85,000
Actuarial Services	<u>\$ 7,500</u>
	\$ 92,500

<u>July 1, 2017 – December 31, 2017:</u>	
Health & Welfare Benefit Services	\$ 95,613
Actuarial Services	<u>\$ 7,500</u>
	\$103,113

**(B) One-year Option Periods:**

<u>July 1, 2014 – June 30, 2015:</u>	
Health & Welfare Benefit Services	\$173,400
Actuarial Services	<u>\$ 15,000</u>
	\$188,400

<u>July 1, 2015 – June 30, 2016:</u>	
Health & Welfare Benefit Services	\$180,336
Actuarial Services	<u>\$ 15,000</u>
	\$195,336

<u>July 1, 2016 – June 30, 2017:</u>	
Health & Welfare Benefit Services	\$187,549
Actuarial Services	<u>\$ 15,000</u>
	\$202,549

The maximum amounts of compensation to be paid to CONSULTANT under this AGREEMENT include payment for professional services, supplies, materials, and equipment provided by CONSULTANT. There shall be no reimbursable expenses.

## **II. Contract Maximum**

The maximum total amount of compensation to be paid to the CONSULTANT under this AGREEMENT for the Initial Term and all Option Periods shall not exceed a total cost of Seven Hundred Eighty One Thousand Eight Hundred Ninety Eight Dollars (\$781,898).

## **III. Payment Method: Monthly Retainer Fee Based on Average Estimated Hours**

Each month, CITY shall pay CONSULTANT a monthly retainer fee for all services provided based on the total annual fees described in sections I(A) and I(B) of this Exhibit C (Compensation).

The monthly amount to be paid to CONSULTANT will be in an amount not to exceed:

### Initial Term

Fifteen Thousand Four Hundred Sixteen Dollars and Sixty Seven Cents  
(\$15,416.67)

### Option Period for July 2014 – June 2015

Fifteen Thousand Seven Hundred Dollars (\$15,700)

### Option Period for July 2015 – June 2016

Sixteen Thousand Two Hundred Seventy Eight Dollars (\$16,278)

### Option Period for July 2016 – June 2017

Sixteen Thousand Eight Hundred Seventy Nine Dollars and Nine Cents  
(\$16,879.09)

### Six Month Option Period for July 2017 – December 2017

Seventeen Thousand One Hundred Eighty Five Dollars and Fifty Cents  
(\$17,185.50)

## **III. Retainer Fee Comparison to Actual Hours Worked**

CONSULTANT shall determine the cost of services performed in accordance with the terms and conditions of this AGREEMENT using the hourly rates described in the table below:

<b>Hourly Labor/Fees</b>	<b>Position Level</b>
\$496	Lead Consultant
\$496	Lead Actuary
\$318	Senior Consultant
\$215	Supporting Actuary
\$496	Clinicians
\$215	Project Manager/Analysts/Technical Support
\$91	Administrative Support

The Hourly Labor/Fees listed above account for all costs required to complete the Scope of Services (Exhibit A) and Schedule of Performance (Exhibit B) to CITY.

During the period approved under this AGREEMENT, CONSULTANT shall track and keep a record of actual cost of the services provided based on the Hourly Labor/Fees above. Within thirty (30) days of the expiration or termination of this AGREEMENT, whichever is sooner, CONSULTANT shall furnish to CITY a final accounting of all work performed during the period approved under this AGREEMENT and an accounting of the actual cost of all services based on the specified Hourly/Labor Fees.

Within 30 days of the expiration of the Initial Term and any approved Option Periods, CONSULTANT shall provide an accounting comparing the actual cost of the services to the AGREEMENT's maximum amounts for the Initial Term and any approved Option Periods. Within 60 days of the expiration of the Initial Term and any approved Option Periods, CONSULTANT shall refund to CITY any excess of retainer fees received by CONSULTANT that exceed the amount calculated above based on the actual hours worked. Any hours worked by CONSULTANT for which payment to CONSULTANT would result in a total annual cost exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.

## **EXHIBIT D**

### **INSURANCE**

CONSULTANT, at CONSULTANT's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors.

#### **A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001 including products and completed operations; and
2. The coverage described in Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 "any auto", or Code 2 "owned autos" and Endorsement CA 0025. Coverage shall also include Code 8 "hired autos" and Code 9 "non-owned autos"; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions.

#### **B. Minimum Limits of Insurance**

CONSULTANT shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors & Omissions: \$10,000,000 per claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this AGREEMENT.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. Consultant is solely responsible for any self-insured retentions or deductibles under each of its insurance policies.

**D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
  - b. CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of CONSULTANT's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
  - d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability



Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

**F. Verification of Coverage**

CONSULTANT shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: [Riskmgmt@sanjoseca.gov](mailto:Riskmgmt@sanjoseca.gov), or mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose—Finance  
Risk Management  
200 East Santa Clara Street, 14th Floor Tower  
San Jose, CA 95113-1905

**G. Subcontractors**

CONSULTANT shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

**EXHIBIT E**

**DISCLOSURE STATEMENT**

CONSULTANT shall file with City Clerk a disclosure statement (Statement of Economic Interests -- Form 700) which includes disclosure of the following:

1. Schedule A - 1 -- Investments.
2. Schedule A - 2 -- Investments, Income and Assets of Business Entitles/Trusts.
3. Schedule B -- Interests in Real Property.
4. Schedule C -- Income and Business Positions.
5. Schedule D -- Income - Loans.
6. Schedule E -- Income - Gifts.
7. Schedule F -- Income - Gifts; Travel Payments, Advances and Reimbursements.

## EXHIBIT F

### SPECIAL PROVISIONS

#### **A. Retroactive Services**

1. It is understood and agreed that CONSULTANT has provided services prior to the execution of this AGREEMENT in anticipation of its execution. However, in no event shall CONSULTANT be compensated for work performed for CITY prior to January 1, 2014.
2. CONSULTANT waives any and all compensation for services by CONSULTANT during the period of November 1, 2013 to December 31, 2013 performed in preparation for the contract period beginning January 1, 2014.

#### **B. Performance Guarantee Agreement**

CONSULTANT's performance will be reviewed quarterly and formally reviewed at the end of each fiscal year. Because changes may occur during the fiscal year that can impact priorities, CONSULTANT and the CITY reserve the right to discuss appropriate corrective action to meet performance expectations.

CONSULTANT agrees to provide a performance guarantee to CITY as specified in the Performance Guarantee table below.

The measurement methodology will be on a five point rating as follows:

- 5=Completely Satisfied
- 4=Very Satisfied
- 3=Satisfied
- 2=Somewhat Satisfied
- 1=Dissatisfied

Performance Guarantee Category	Performance Guarantee	Measurement Methodology	Fee at Risk
<b>CUSTOMER SERVICE</b>			1.25%
	Maintains calendar of tasks and responsibilities	Rating by CITY on a scale of 1-5	
	Staffs the contracted work with consultants with appropriate skill set	Rating by CITY on a scale of 1-5	
	Delivers services as promised	Rating by CITY on a scale of 1-5	
<b>RESPONSIVENESS</b>			1.25%
	CITY calls and e-mails will be responded to within 24 hours	Rating by CITY on a scale of 1-5	

Performance Guarantee Category	Performance Guarantee	Measurement Methodology	Fee at Risk
<b>RESPONSIVENESS (cont'd)</b>			1.25%
	Resolves issues quickly and completely	Rating by CITY on a scale of 1-5	
	Anticipates CITY's needs	Rating by CITY on a scale of 1-5	
	Follows through on all requests from CITY	Rating by CITY on a scale of 1-5	
<b>REPORTING AND CONTRACTS</b>			1.25%
	All deliverables listed in EXHIBIT B will be provided by the Deliverable Date	Rating by CITY on a scale of 1-5	
	All RFP Work Plan milestones to be completed by the target dates	Satisfactory performance is measured by adherence to the implementation timetable mutually agreed upon by CONSULTANT and CITY. Timely accomplishment of each milestone shall mean completion within 1 week of the agreed upon target date.	
	Successfully negotiate CITY vendor contracts and associated premiums	Rating by CITY on a scale of 1 to 5	
	Reports, contracts and all other information provided by CONSULTANT is accurate	Rating by CITY on a scale of 1 to 5	
	Reports and contracts are professionally prepared and presented	Rating by CITY on a scale of 1 to 5	
<b>MEETINGS AND EVENTS</b>			1.25%
	Attends scheduled meetings on time	Rating by CITY on a scale of 1 to 5	
	Communicates effectively	Rating by CITY on a scale of 1 to 5	
	Provides necessary support to Staff	Rating by CITY on a scale of 1 to 5	
<b>CALCULATION AND PAYMENT</b>			
Starting April 1, 2014, the penalties ("Fee at Risk"), if any, will be calculated quarterly for each fiscal year of the contract period. To avoid penalties, the average score in each Performance Guarantee category must be a 3 or higher. The total amount of the penalties assessed shall be five percent (5%) of the annual fees due to CONSULTANT during each contract year. The Fee at Risk will be paid in the form of adjustments to the following fiscal year's fees. Any negative invoice amounts will be carried forward.			

**EXHIBIT G**

**NOTICE OF EXERCISE OF OPTION TO EXTEND  
CONSULTANT SERVICES AGREEMENT  
BETWEEN  
THE CITY OF SAN JOSE  
AND  
AON CONSULTING, INC. DBA AON HEWITT**

WHEREAS, on \_\_\_\_\_, 2013, the CITY OF SAN JOSE ("CITY") and AON CONSULTING, INC. DBA AON HEWITT ("CONSULTANT") entered an Agreement for Consultant Services ("AGREEMENT") which contains an option to extend the Initial Term for three (3) additional one-year periods and one (1) additional six-month period ("Option Period"); and

WHEREAS, CITY has made the determination to extend the AGREEMENT for the first/second/third one-year Option Period or for the six-month Option Period;

NOW, THEREFORE,

CITY HEREBY EXERCISES, pursuant to Section 2 of the AGREEMENT, the first/second/third one-year option or six-month option to extend the term of the AGREEMENT for the period of \_\_\_\_\_ through \_\_\_\_\_. All of the terms and conditions of the AGREEMENT shall remain in full force and effect during the Option Period.

"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal  
corporation

\_\_\_\_\_  
NEELAM NAIDU  
Deputy City Attorney

By \_\_\_\_\_  
ALEX GURZA  
Deputy City Manager